

CUSTOMS BULLETIN AND DECISIONS

**Weekly Compilation of
Decisions, Rulings, Regulations, Notices, and Abstracts
Concerning Customs and Related Matters of the
U.S. Customs Service
U.S. Court of Appeals for the Federal Circuit
and
U.S. Court of International Trade**

VOL. 30

OCTOBER 9, 1996

NO. 41

This issue contains:

U.S. Customs Service
T.D. 96-69
General Notices
Proposed Rulemaking

**DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE**

NOTICE

The decisions, rulings, regulations, notices and abstracts which are published in the CUSTOMS BULLETIN are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Office of Finance, Logistics Division, National Support Services Staff, Washington, DC 20229, of any such errors in order that corrections may be made before the bound volumes are published.

**Please visit the U.S. Customs Web at:
<http://www.customs.ustreas.gov>**

U.S. Customs Service

Treasury Decision

(T.D. 96-69)

ANNOUNCEMENT OF COLLECTION OF SPECIAL TONNAGE TAXES AND LIGHT MONEY UPON ENTRY INTO THE UNITED STATES OF VESSELS OF UKRAINE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces that the United States has determined that the Government of Ukraine is discriminating against vessels of the United States in the collection of certain fees and taxes from such vessels which enter that country. As a consequence, it has become necessary to discontinue the exemption from the collection of special tonnage taxes and light money enjoyed by vessels of Ukraine upon entering United States ports.

EFFECTIVE DATE: The change established by this notice will commence September 26, 1996.

FOR FURTHER INFORMATION CONTACT: Larry L. Burton, Office of Regulations and Rulings (202) 482-7040.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton denominated "light money", on all foreign vessels which enter United States ports (46 U.S.C. App. 121 and 128). Vessels of a foreign nation may, however, be exempted from the payment of such special tonnage taxes and light money upon presentation of satisfactory proof that no discriminatory duties of tonnage or impost are imposed by that foreign nation on United States vessels or their cargoes (46 U.S.C. App. 141). The list of nations whose vessels have been found to be reciprocally exempt from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money is found at § 4.22, Customs Regulations (19 CFR 4.22). Nations granted these com-

mercial privileges that subsequently impose discriminatory duties are subject to retaliatory suspension of the commercial privileges (46 U.S.C. App. 141 and 142).

The list of countries in 19 CFR 4.22 is compiled as the result of international agreements between the United States and the governments of those nations listed. Customs either adds or deletes the names of countries only upon the request of the Department of State. The present list includes the former Union of Soviet Socialist Republics (USSR) and, following the dissolution of that country, Customs was guided by a policy determination of the Department of State which holds that absent a separate agreement to the contrary, the states emerging from the break-up of the USSR take the same rights and obligations as existed for the USSR.

By a letter received on September 16, 1996, Customs was informed by the Department of State that the Government of Ukraine is presently assessing discriminatory tonnage fees against vessels of the United States which enter at Ukrainian ports. As a consequence, the Department of State has requested that action be taken to end the exemption from the assessment of special tonnage taxes and light money presently extended to Ukrainian vessels entering United States ports. Normally, Customs would be supplied with the names of countries to add to or delete from the regulatory list, but since discussion with other former Soviet states is on-going, it has been determined to issue this non-amendatory notice at this time to limit the exemption privilege by excluding Ukraine. The Department of State informs Customs that upon the conclusion of present discussions, Customs will be formally requested to add the names of certain countries to 19 CFR 4.22, and to delete the USSR from the regulation.

Therefore, effective immediately upon publication of this General Notice, vessels of Ukraine entering ports of the United States are no longer exempted from the assessment of special tonnage taxes and light money. Special tonnage taxes and light money in the amounts authorized under law will be collected on all such vessels.

Dated: September 20, 1996.

STUART P. SEIDEL,
*Assistant Commissioner,
Office of Regulations and Rulings.*

[Published in the Federal Register, September 26, 1996 (61 FR 50534)]

U.S. Customs Service

General Notices

PROPOSED COLLECTION; COMMENT REQUEST

AIR CARGO MANIFEST

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Air Cargo Manifest. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 22, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Title: Air cargo manifest to manipulate, examine, sample, or transfer goods

OMB Number: 1515-0001

Form Number: Customs Form 7509

Abstract: Customs Form 7509 is the source of information that provides for the accountability, integrity, and security of goods in air commerce that are imported into the United States.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions and individuals

Estimated Number of Respondents: 150

Estimated Time Per Respondent: 34 minutes

Estimated Total Annual Burden Hours: 116,586

Estimated Total Annualized Cost on the Public: \$109,920

Request for Comments:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the—use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Dated: September 13, 1996.

V. CAROL BARR,

Printing and Records Services Group.

[Published in the Federal Register, September 23, 1996 (61 FR 49814)]

PROPOSED COLLECTION; COMMENT REQUEST

APPLICATION AND APPROVAL TO MANIPULATE, EXAMINE, SAMPLE, OR TRANSFER GOODS

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application and Approval to Manipulate, Examine, Sample, or Transfer Goods. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 22, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Title: Application and approval to manipulate, examine, sample, or transfer goods

OMB Number: 1515-0021

Form Number: Customs Form 3499

Abstract: Customs Form 3499 is prepared by importers or consignees as an application to request examination, sampling, or transfer of merchandise under Customs supervision. This form is also an application for the manipulation of merchandise in a bonded warehouse and abandonment or destruction of merchandise.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions and individuals

Estimated Number of Respondents: 2,290

Estimated Time Per Respondent: 6 minutes

Estimated Total Annual Burden Hours: 13,740

Estimated Total Annualized Cost on the Public: \$109,920

Request for Comments:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the - use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

In this document Customs is soliciting comments concerning the following information collection:

Dated: September 13, 1996.

V. CAROL BARR,
Printing and Records Services Group.

[Published in the Federal Register, September 23, 1996 (61 FR 49813)]

PROPOSED COLLECTION; COMMENT REQUEST

BONDED WAREHOUSE PROPRIETOR'S SUBMISSION

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Bonded Warehouse Proprietor's Submission. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 22, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Title: Bonded warehouse proprietor's submission.

OMB Number: 1515-0093

Form Number: Customs Form 300

Abstract: Customs Form 300 is prepared by Bonded Warehouse Proprietors and submitted to the Customs Service annually. The document reflects all bonded merchandise entered, released, and manipulated, and includes beginning and ending inventories.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions
Estimated Number of Respondents: 1,403
Estimated Time Per Respondent: 132 hours
Estimated Total Annual Burden Hours: 185,757
Estimated Total Annualized Cost on the Public: \$1,671,813

Request for Comments:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Dated: September 13, 1996.

V. CAROL BARR,
Printing and Records Services Group.

[Published in the Federal Register, September 23, 1996 (61 FR 49812)]

PROPOSED COLLECTION; COMMENT REQUEST

DECLARATION OF A PERSON ABROAD WHO RECEIVES AND IS RETURNING MERCHANDISE TO THE U.S.

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration of a Person Abroad Who Receives and is Returning Merchandise to the U.S. This request for comment is being

made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 22, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Title: Declaration of a person abroad who receives and is returning merchandise to the U.S.

OMB Number: 1515-0108

Form Number: N/A

Abstract: The declaration is used under conditions where articles are imported and then exported and then reimported free of duty due to the declaration, it is used insured Customs control over duty free merchandise.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Individuals, business or other for-profit institutions

Estimated Number of Respondents: 500

Estimated Time Per Respondent: 10 minutes

Estimated Total Annual Burden Hours: 292

Estimated Total Annualized Cost on the Public: \$5,942

Request for Comments:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB)

approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Dated: September 13, 1996.

V. CAROL BARR,
Printing and Records Services Group.

[Published in the Federal Register, September 23, 1996 (61 FR 49812)]

PROPOSED COLLECTION; COMMENT REQUEST

DECLARATION OF OWNER OF MERCHANDISE OBTAINED (OTHER THAN) IN PURSUANCE OF A PURCHASE OR AGREEMENT TO PURCHASE AND DECLARATION OF IMPORTER OF RECORD WHEN ENTRY IS MADE BY AN AGENT

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration of Owner of Merchandise Obtained (other than) in Pursuance of a Purchase or Agreement to Purchase and Declaration of Importer of Record When Entry is Made by an Agent. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 22, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Title: Declaration of owner of merchandise obtained (other than) in pursuance of a purchase or agreement to purchase and declaration of importer of record when entry is made by an agent.

OMB Number: 1515-0050

Form Number: Customs Forms 3347 and 3347A

Abstract: Customs Form 3347 and 3347A allows an agent to submit, subsequent to making the entry, the declaration of the importer of record which is required by statute. These forms also permits a nominal importer of record to file the declaration of the actual owner and to be relieved of statutory liability for the payment of increased duties.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 950

Estimated Time Per Respondent: 6 minutes

Estimated Total Annual Burden Hours: 570

Estimated Total Annualized Cost on the Public: \$12,312

Request for Comments:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Dated: September 13, 1996.

V. CAROL BARR,

Printing and Records Services Group.

[Published in the Federal Register, September 23, 1996 (60 FR 49813)]

PROPOSED COLLECTION; COMMENT REQUEST**NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)
REGULATIONS AND CERTIFICATE OF ORIGIN**

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the NAFTA Regulations and Certificate of Origin. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 22, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Title: NAFTA regulations and certificate of origin

OMB Number: 1515-0204 and 1515-0205

Form Number: Customs Form 434 and 446

Abstract: The objectives of NAFTA are to eliminate barriers to trade in goods and services between the United States, Mexico, and Canada; facilitate conditions of fair competition within the free trade area; liberalize significantly conditions for investments within the free trade area; establish effective procedures for the joint administration of the NAFTA; and the resolution of disputes.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 1,155

Estimated Time Per Respondent: 10 minutes

Estimated Total Annual Burden Hours: 2,694

Estimated Total Annualized Cost on the Public: \$43,100

Request for Comments:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pur-

suant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Dated: September 13, 1996.

V. CAROL BARR,
Printing and Records Services Group.

[Published in the Federal Register, September 23, 1996 (61 FR 49810)]

PROPOSED COLLECTION; COMMENT REQUEST

REPORTING REQUIREMENTS FOR VESSELS, VEHICLES, AND INDIVIDUALS

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Reporting Requirements for Vessels, Vehicles, and Individuals. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 22, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed

to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Title: Reporting requirements for vessels, vehicles, and individuals

OMB Number: 1515-0203

Form Number: N/A

Abstract: These regulations pertain to the arrival, entry, and departure reporting requirements applicable to vessels, vehicles, and individuals and informs the public regarding applicable penalty, seizure, and forfeiture provisions for violating these requirements.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions and individuals

Estimated Number of Respondents: 200,000

Estimated Time Per Respondent: 1 minutes

Estimated Total Annual Burden Hours: 1,500

Estimated Total Annualized Cost on the Public: \$18,000

Request for Comments:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Dated: September 13, 1996.

V. CAROL BARR,

Printing and Records Services Group.

[Published in the Federal Register, September 23, 1996 (60 FR 49811)]

PROPOSED COLLECTION; COMMENT REQUEST

TRANSFER OF CARGO TO A CONTAINER STATION

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Transfer of Cargo to a Container Station. . This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 22, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 6216, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Title: Transfer of cargo to a container station

OMB Number: 1515-0142

Form Number: N/A

Abstract: The container station operator may file an application for transfer of a container intact to a container station which is mover from the place of unloading or from a bonded carrier after transportation in-bond before filing of the entry for the purpose of breaking bulk and redelivery.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Business or other for-profit institutions

Estimated Number of Respondents: 360

Estimated Time Per Respondent: 6 minutes

Estimated Total Annual Burden Hours: 1,872

Estimated Total Annualized Cost on the Public: \$18,720

Request for Comments:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the

collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Dated: September 13, 1996.

V. CAROL BARR,
Printing and Records Services Group.

[Published in the Federal Register, September 23, 1996 (61 FR 49811)]

U.S. Customs Service

Proposed Rulemaking

19 CFR Part 162

RIN 1515-AB98

PRIOR DISCLOSURE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes amendments to the Customs Regulations governing "prior disclosure" as well as implementing a provision of the Customs Modernization portion of the North American Free Trade Implementation Act (Mod Act) concerning prior disclosure by a person of a violation of law committed by that person involving the entry or introduction or attempted entry or introduction of merchandise into the United States by fraud, gross negligence or negligence. Pursuant to "prior disclosure" under 19 U.S.C. 1592(c)(4), as amended by the Mod Act, if a person who commits such a violation discloses the circumstances of the violation before, or without knowledge of, the commencement of a formal investigation of such violation, merchandise shall not be seized and any monetary penalty to be assessed under 19 U.S.C. 1592 shall be limited. The amendment to the Customs Regulations proposed in this document would spell out when there is "commencement of a formal investigation" for purposes of 19 U.S.C. 1592. The document also amends the regulations to give Fines, Penalties and Forfeitures Officers discretion to defer referral for full investigation of a disclosure of an unintentional violation of law until the disclosing party has an opportunity to explain all the circumstances underlying the disclosed violation.

DATE: Comments must be received on or before November 25, 1996.

ADDRESSES: Comments (preferably in triplicate) may be submitted to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW, Washington, DC 20229, and may be inspected at Franklin Court, 1099 14th Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Pisani, Penalties Branch (202) 482-6946.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, the President signed the North American Free Trade Agreement Implementation Act (Public Law 103-182). The Customs Modernization portion of this Act (Title VI), popularly known as the Customs Modernization Act, or "the Mod Act" became effective when it was signed. Section 621 of Title VI amended § 592 of the Tariff Act of 1930 (19 U.S.C. 1592) (hereinafter referred to as § 592). This document involves the amendments to § 592(c)(4) effected by § 621(4) of Title VI.

Section 592 provides that no person, by fraud, gross negligence, or negligence may enter, introduce or attempt to enter or introduce any merchandise into the commerce of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act which is material and false, or any omission which is material. Further, no person may aid or abet any other person in violating the above-stated prohibition. The statute provides maximum penalties for violations of its provisions.

Section 592(c)(4), the prior disclosure provision, affords a party who discloses a violation of § 592 with benefits of significantly reduced penalties (or in certain cases, no penalties) where the party fully discloses the circumstances of the violation, and does so before, or without knowledge of, "the commencement of a formal investigation" of the disclosed violation.

The Mod Act amendments to § 592(c)(4) involved the adoption of a statutory definition of the term "commencement of a formal investigation." Section 592(c)(4) now provides that a formal investigation is deemed commenced on the date recorded in writing by Customs as the date on which facts and circumstances were discovered or information was received which caused Customs to believe that the possibility of a § 592 violation existed.

Presently, § 162.74(d) and (e) of the Customs Regulations (19 CFR 162.74(d) and (e)) set forth the agency definition of "commencement of a formal investigation" and this definition does not require, in all cases, that the "commencement" be evidenced by a writing or electronic transmission.

This document proposes to amend the Customs Regulations to set forth in § 162.74(g) a definition of "commencement of a formal investigation" consistent with the definition set forth in § 592. The language in § 162.74(d) and (e), Customs Regulations that is inconsistent with the statutory definition is removed.

The document also attempts to simplify the regulations by bringing all material relating to the prior disclosure of § 592 violations into one section. Accordingly, the definition of the phrase "discloses the circumstances of the violation", which applies only to prior disclosure provisions, is proposed to be moved from § 162.71, Customs Regulations to paragraph (b) of § 162.74.

This document also proposes to amend the regulations to provide for the possibility of a delay of the verification of the violation by the Office of Investigations. Section 162.74(c), Customs Regulations, currently contains a requirement that all claimed prior disclosures immediately be referred for investigation. In the past, such referrals often have led to a rapid Customs deployment of investigative resources to the disclosing party's premises, or the rapid issuance of subpoenas or civil summonses for records—even in instances where the disclosing party is in the process of collecting the necessary information to “perfect” the claimed prior disclosure. In such cases, not only does strict adherence to the current immediate referral requirement sometimes result in delaying disposition of the disclosed violation, but also may serve to deter parties from making prior disclosures at all. Customs now proposes a new paragraph (f) which provides that the disclosing party may request the additional time to gather information in order to fully disclose the circumstances of the violation as defined in paragraph (b) of the proposed amendment. Customs believes that the disclosing party should be able to ask Customs to defer the Office of Investigations verification proceedings until the party has completed its disclosure of the circumstances within the time permitted under the proposed paragraph (b).

COMMENTS

Before adopting the proposed amendment, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, 1099 14th Street, NW, Suite 4000, Washington, D.C.

REGULATORY FLEXIBILITY ACT

Insofar as the proposed regulations closely follow legislative direction, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), it is certified that the amendment, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

EXECUTIVE ORDER 12866

This amendment does not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

DRAFTING INFORMATION

The principal author of this document was Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

PAPERWORK REDUCTION ACT

The collection of information contained in this rulemaking has been submitted to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995. (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection of information displays a valid control number.

The collection of information in this regulation is in § 162. This information is to enable the Customs Service able to effectively administer the laws it is charged with enforcing while, at the same time, imposing a minimum burden on the public it is serving. Respondents are those parties who wish to voluntarily disclose the circumstances of a violation of 19 U.S.C. 1592 in order to obtain reduced penalty benefits which are available pursuant to 19 U.S.C. 1592(c)(4). The likely respondents are business organizations including importers, exporters and manufacturers.

Estimated total annual reporting burden: 3,500 hours.

Estimated average annual burden per respondent: 1 hour for each Customs entry involved in the prior disclosure.

Estimated number of respondents: 3,500.

Estimated annual frequency of responses: Because a prior disclosure of a Customs law violation is made voluntarily, it is impossible to predict with any accuracy the frequency at which such disclosures may be made.

Comments concerning the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

LIST OF SUBJECTS

19 CFR Part 162

Customs duties and inspection, Law enforcement, Seizures and forfeitures.

PROPOSED AMENDMENT

It is proposed to amend Part 162, Customs Regulations (19 CFR Part 162) as set forth below:

PART 162—RECORDKEEPING, INSPECTION,
SEARCH, AND SEIZURE

1. The authority citation for Part 162 will continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

* * * * *

2. Section 162.71 is amended by removing paragraph (e).

3. Section 162.74 is revised to read as follows:

§ 162.74 Prior disclosure.

(a) *In General.* (1) A prior disclosure of a violation is made if the person concerned discloses the circumstances of a violation (as defined in paragraph (b) of this section) of 19 U.S.C. 1592 or 19 U.S.C. 1593a, either orally or in writing to a Customs Officer before, or without knowledge of, the commencement of a formal investigation of that violation, and makes a tender of any actual loss of duties in accordance with paragraph (c) of this section. A Customs officer who receives such a tender in connection with a prior disclosure shall ensure that the tender is deposited with the concerned local Customs entry officer.

(2) A person shall be accorded the full benefits of prior disclosure treatment if that person provides information orally or in writing to Customs with respect to a violation of 19 U.S.C. 1592 or 19 U.S.C. 1593a if the concerned Fines, Penalties & Forfeitures Officer is satisfied that the information was provided before, or without knowledge of, the commencement of a formal investigation, and that the information provided includes substantially the information specified in paragraph (b) of this section.

(b) *Disclosure of the Circumstances of a Violation.* The term "discloses the circumstances of a violation" means the act of providing to Customs a statement orally or in writing which:

(1) Identifies the class or kind of merchandise involved in the violation;

(2) Identifies the importation or drawback claim included in the disclosure by entry number, drawback claim number, or by indicating each concerned Customs port of entry and the approximate dates of entry or dates of drawback claims;

(3) Specifies the material false statements, omissions or acts; and

(4) Sets forth to the best of the violator's knowledge, the true and accurate information or data which should have been provided in the entry or drawback claim documents, and states that the person will provide any information or data which is unknown at the time of disclosure within 30 days of the initial disclosure date. Extensions of the 30 day period may be requested by the disclosing party from the concerned Fines, Penalties & Forfeitures Officer to enable the party to obtain the information or data.

(c) *Tender of Actual Loss of Revenue.* A person who discloses the circumstances of the violation shall tender any actual loss of revenue either at the time of disclosure or within 30 days after a Customs officer notifies the person in writing of the calculation of the actual loss of revenue. The Fines, Penalties & Forfeitures Officer may extend the 30 day period if it is determined there is good cause to do so. Failure to tender the actual loss of revenue finally calculated by Customs shall result in denial of the prior disclosure benefits.

(d) *Effective Time and Date of Prior Disclosure.*

(1) If the documents which provide the disclosing information are sent by registered or certified mail, return-receipt requested, and are ultimately received by Customs, the disclosure shall be deemed to have been made at the time of mailing.

(2) If the documents are sent by other methods, including in-person delivery, the disclosure shall be deemed to have been made at the time of receipt by Customs. If the documents are delivered in person, the person delivering the documents is to request a receipt from Customs which will indicate the time and date of receipt.

(3) The provision of information which is not in writing but which qualifies for prior disclosure treatment pursuant to paragraph (a)(2) of this section shall be deemed to have occurred at the time when Customs was provided with information which substantially complies with the requirements set forth in paragraph (b) of this section.

(e) *Addressing and Filing Prior Disclosure.*

(1) A written prior disclosure should be addressed to the Commissioner of Customs and presented to a Customs officer at the Customs port of entry of the disclosed violation.

(2) In the case of a prior disclosure involving violations at multiple ports of entry, the disclosing party shall orally disclose or provide copies of the disclosure to all concerned Fines, Penalties & Forfeitures Officers. In accordance with internal Customs procedures, the officers will then seek consolidation of the disposition and handling of the disclosure.

(f) *Verification of Disclosure.* Upon receipt of a prior disclosure, the concerned Customs officer shall notify the Customs Office of Investigations of the disclosure. The violator may request, in the oral or written prior disclosure, that the Office of Investigations withhold the initiation of disclosure verification proceedings until after the party has provided the information or data within the time limits specified in paragraph (b)(4) of this section. It is within the concerned Fines, Penalties & Forfeitures Officer's discretion to grant or deny such a request. (g) *Commencement of a Formal Investigation.* A formal investigation of a violation is considered to be commenced on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received which caused the Customs Service to believe that a possibility of a violation existed. In the event that a party is denied prior disclosure treatment on the basis that Cus-

toms had commenced a formal investigation of the disclosed violation, and Customs initiates a penalty action against the disclosing party involving the disclosed violation, a copy of a writing evidencing the commencement of a formal investigation of the disclosed violation shall be attached to any required notice issued to the disclosing party pursuant to 19 U.S.C. 1592 or 19 U.S.C. 1593a.

(h) *Scope of the Disclosure and Expansion of a Formal Investigation.* A formal investigation is deemed to have commenced regarding additional violations not included or specified by the disclosing party in the party's original prior disclosure on the date recorded in writing by the Customs Service as the date on which facts and circumstances were discovered or information was received which caused the Customs Service to believe that a possibility of such additional violations existed. Additional violations not disclosed or covered within the scope of the party's prior disclosure which are discovered by Customs as a result of an investigation and/or verification of the prior disclosure shall not be entitled to treatment under the prior disclosure provisions.

(i) *Knowledge of the Commencement of a Formal Investigation.* (1) A disclosing party who claims lack of knowledge of the commencement of a formal investigation has the burden to prove that lack of knowledge. A person shall be presumed to have had knowledge of the commencement of a formal investigation of a violation if before the claimed prior disclosure of the violation a formal investigation has been commenced and:

(i) A Customs officer, having reasonable cause to believe that there has been a violation of 19 U.S.C. 1592 or 19 U.S.C. 1593a, so informed the person concerning the type of or circumstances of the disclosed violation; or

(ii) A Customs Special Agent, having properly identified himself or herself and the nature of his or her inquiry, had, either in person or in writing, made an inquiry of the person concerning the type of or circumstances of the disclosed violation; or

(iii) A Customs Special Agent having properly identified himself or herself and the nature of his or her inquiry, requested specific books and/or records of the person relating to the disclosed violation; or

(iv) The disclosing party receives a prepenalty or penalty notice issued pursuant to 19 U.S.C. 1592 or 19 U.S.C. 1593a relating to the type of or circumstances of the disclosed violation; or

(v) The merchandise which is the subject of the disclosure was seized by Customs because of the type of or circumstances of the disclosed violation; or

(vi) In the case of violations involving merchandise accompanying persons entering the United States or commercial merchandise inspected in connection with entry, the person has received oral notification of the Customs officer's finding of a violation.

(2) The presumption of knowledge may be rebutted by evidence that, notwithstanding the foregoing notice, inquiry or request, the person

did not have knowledge that an investigation had commenced with respect to the disclosed information.

WILLIAM F. RILEY,
Acting Commissioner of Customs.

Approved: August 27, 1996.

DENNIS M. O'CONNELL,

Acting Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, September 26, 1996 (61 FR 50459)]





Index

Customs Bulletin and Decisions
Vol. 30, No. 41, October 9, 1996

U.S. Customs Service

Treasury Decision

	T.D. No.	Page
Collection of special tonnage taxes and light money upon entry into the United States of vessels of Ukraine	96-69	1

General Notices

	Page
Proposed collection; comment request:	
Air cargo manifest	3
Application and approval to manipulate, examine, sample, or transfer goods	4
Bonded warehouse proprietor's submission	6
Owner of merchandise obtained (other than) in pursuance of a purchase or agreement to purchase and declaration of importer of record when entry is made by an agent	9
Person abroad who receives and is returning merchandise to the U.S.	7
North American Free Trade Agreement (NAFTA) Regulations and Certificate of Origin	11
Reporting requirements for vessels, vehicles, and individuals ...	12
Transfer of cargo to a container station	14

Proposed Rulemaking

	Page
Prior disclosure; 19 CFR Part 162, RIN 1515-AB98	17



Federal Recycling Program
Printed on Recycled Paper

U.S. G.P.O. 1996-405-477-40005

